

REMARKS

This application has been carefully reviewed in light of the Office Action dated November 21, 2006. Applicant has amended Claims 1-4. Claims 1-4 are currently pending in the application, with Claim 1 being the sole independent claim. Reconsideration and further examination are respectfully requested.

Claim Objections

Claims 1-4 are objected for various informalities noted in the Office Action. Applicant has amended Claims 1-4 to address the informalities noted by the Examiner. In view of the amendments, reconsideration and withdrawal of Examiner's objections are respectfully requested.

Rejections Under 35 U.S.C. §103(a)

In the Office Action, Claims 1 and 2 were rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 4,549,355 (Sauer). Claims 3 and 4 were rejected under 35 U.S.C. §103(a) as unpatentable over Sauer in view of U.S. Patent No. 2,873,341 (Kutsay). In view of the following discussion, Applicant respectfully traverses the rejections.

The present invention, as defined by independent Claim 1 is a precision dendrometer, of the type based on the use of extension measurement bands as resistances for a Wheatstone Bridge type circuit. The dendrometer includes a sensor holder that serves as a part for securing the dendrometer to a plant and an electronic interface connecting the sensor holder to a data collector equipment and a sensor. The sensor includes a cylindrical body of aluminium, which is coupled to a first end of an aluminium sheet on which the extension measurement bands are mounted, and a second end of the aluminium sheet which is contacting the plant. The sensor is configured to determine a dimensional variation of the plant according to a pressure exerted by the plant.

The Examiner rejected Claim 1 under 35 U.S.C. § 103(a) as being unpatentable over Sauer. To establish *prima facie* obviousness of a claimed invention, all the claimed limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). A rejection under 35 U.S.C. § 103 in view of a prior patent can only be properly sustained if that patent, in view of what was known to those of ordinary skill in the art at the time the invention was made, discloses each and every element of the claim and suggests arranging them as in the claim. This Sauer fails to do.

Applicant discloses “an **aluminium sheet (10)** on which . . . extension measurement bands are mounted; a second end of the aluminium sheet (10) contacting the plant” (emphasis added), wherein the extension measurement bands allow for “the dimensional increase or decrease of the plant being analysed to be deduced.” Paragraph 0008. Sauer does not have this feature.

Sauer discloses strain gauges affixed to a transducer member, preferably a C-shaped structure made with a relatively temperature stable noncorroable material such as plastic. Sauer, Col. 2, ln. 4-10. Sauer does not disclose mounting extension measurement bands or strain gauges on aluminum, or any other metal. Moreover nowhere does Sauer disclose using aluminum.

Furthermore, the Examiner states that Webster’s Dictionary defines a sheet as “a relatively thin rectangular slab of metal.” Applicant respectfully disagrees with Examiner’s conclusion that Sauer teaches mounting extension measurement bands/strain gauges on a sheet. According to the definition provided by the Examiner, a sheet must be (1) made of metal, (2) “relatively thin,” and (3) rectangular.

The transducer member of Sauer, is not (1) made of metal as discussed above. Furthermore, Sauer does not disclose the transducer member being (2) “relatively thin” or (3)

rectangular. In this regard, Sauer's dendrometer is subject to both tension and compression forces. Sauer, Col. 2, ln. 13-24.

Applicant discloses certain embodiments of the (1) aluminum sheet having (2) "little thickness" and having a (3) "rectangular configuration." Paragraphs 0014 and 0075, respectively. Consequently, by using a sheet-like structure, Applicant's dendrometer is advantageously submitted to only compression forces, thereby improving accuracy and measurement stability in comparison to being submitted to both tension and compression forces. Paragraphs 0033-0052.

Additionally, Applicant discloses a "**cylindrical body (13) of aluminum** coupled to a first end of an aluminium sheet" (emphasis added). Sauer does not disclose this feature.

Sauer teaches mounting extension measurement bands/strain gauges on a transducer member, as discussed above. The transducer member of Sauer is disclosed as either rigidly affixed to a jaw connection block (Sauer, Col. 2, ln. 35-36), between transducer connection flanges (Sauer, Col. 2, ln. 65-67), and/or spanning between contact plates (Sauer, Col 3., ln. 25-27). Neither the jaw connection block, the transducer connection flanges, or the contact plates are described or illustrated as cylindrical or composed of aluminum in Sauer.

Because Sauer does not disclose or suggest each and every element of Applicant's Claim 1, or suggest an arrangement as Applicant's Claim 1, Applicant respectfully submits that a rejection under 35 U.S.C. § 103 in view of Sauer cannot be sustained.

Therefore, Claim 1 could not have been obvious under 35 U.S.C. § 103(a). Furthermore, because Claims 2-4 depend from Claim 1, Claims 2-4 also could not have been obvious in view of Sauer. Kutsay likewise does not disclose the above referenced elements missing from Sauer. Therefore, Applicant respectfully requests that the Examiner withdraw his rejection of Claim 9 under 35 U.S.C. § 103(a).

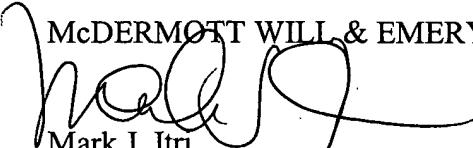
Conclusion

Applicant respectfully submits that the claims are in condition for allowance. Furthermore, any remarks in support of patentability of one claim should not be imputed to any other claim, even if similar terminology is used. Any remarks referring to only a portion of a claim should not be understood to base patentability on that portion; rather, patentability rests on each claim taken as a whole. Applicant does not necessarily acquiesce in any of the Examiner's assertions regarding what the prior art teaches, even if not expressly discussed herein.

In view of the foregoing comments, it is respectfully submitted that the present application is fully in condition for allowance, and that such action is earnestly solicited. If any questions remain, however, the Examiner is cordially invited to contact the undersigned attorney so that any such matters may be promptly resolved.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension-of-time fees, to Deposit Account 502203 and please credit any excess fees to that deposit account.

Respectfully submitted,


McDERMOTT WILL & EMERY LLP
Mark J. Itri
Registration No. 36,171

18191 Von Karman Ave., Suite 500
Irvine, CA 92612-7108
Phone: 949.851.0633 AAS:gmb
Facsimile: 949.851.9348
Date: February 21, 2007
ORC 407732-2.044514.0023

**Please recognize our Customer No. 31824
as our correspondence address.**